

STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

CHARLES RUSSELL RHINES,

Petitioner,

vs.

DOUGLAS WEBER, Warden, South
Dakota State Penitentiary,

Respondent.

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

CIV. 02-924

PROTECTIVE ORDER

This matter having come before the court on the party's stipulated motion for protective order, and good cause appearing, it is hereby:

ORDERED that the names and any identifying information concerning execution personnel previously denominated as Deponents # 1, # 2, # 3 and # 4 in the matter of *Moeller v. Weber, et al.* CIV. 04-4200 (D.Ct.S.D.), may not be disclosed to any person involved in this case or to any member of the public. Deposition transcripts of these deponents are sealed and may not be disclosed to anyone except counsel in this case and experts retained by counsel subject to this protective order. Counsel for petitioner, Charles Russell Rhines, shall not disclose copies of the transcripts to the petitioner;

IT IS FURTHER ORDERED that the name of the source of execution drugs is protected and may not be disclosed to anyone except petitioner's counsel, Neil Fulton, Dr. Mark Heath, any pharmacist retained as an expert by the South Dakota Federal Public Defender Office (SFPDO), respondent's counsel and experts, and the court. The aforementioned persons who receive this information may not share it with anyone except the persons specifically identified in this order. The SDFPDO may not share the source of the execution drugs or any identifying information with petitioner. The SDFPDO may not use any information concerning respondent's drug source for any purpose except this litigation.


IT IS FURTHER ORDERED that respondent's experts, Dr. Heath and any pharmacist retained as an expert by the SDFPDO, are enjoined from discussing any aspect of the facts of, or their testimony or opinions in, the above-captioned case, other than the bare fact that they have served as experts in the case, with anyone other than the SDFPDO and their experts, respondent's counsel and their experts, and the court.



IT IS FURTHER ORDERED that all pleadings and deposition testimony should avoid the use of and redact any information tending to identify the manufacturer or supplier of execution drugs. If it becomes impossible to redact the name or identifying information in any pleading or testimony, the pleading or transcript will be filed under seal.

Dated this 11 day of October 2012.

BY THE COURT:


The Honorable Thomas Trimble
Circuit Court Judge

ATTEST 
RANAE TRUMAN, CLERK

By: 
Deputy Clerk

SEAL

State of South Dakota } Seventh Judicial
County of Pennington } Circuit Court
I hereby certify that the foregoing instrument
is a true and correct copy of the original as
the same appears on record in my office this

OCT 11 2012

RANAE L. TRUMAN
Clerk of Courts, Pennington County

By:  Deputy

Pennington County, SD
FILED
IN CIRCUIT COURT

OCT 11 2012

Ranae Truman, Clerk of Courts
By:  Deputy

FILED

OCT 15 2012


CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

DONALD E. MOELLER,

CIV. 04-4200

Plaintiff,

vs.

ORDER ON DEFENDANTS'
MOTION TO EXPAND
PROTECTIVE ORDERS
[Dockets 285 and 286]

DOUGLAS WEBER, Warden,
South Dakota State Penitentiary,
DENNIS KAEMINGK, Secretary of
the South Dakota Department of
Corrections in his official capacity,
and DOES 1-20, unknown employees or
agents of the South Dakota Department
of Corrections,

Defendants.

This matter, having come before the Court on Defendants' Motion to Expand this Court's Order protecting the identities of Defendants' drug sources and execution personnel (Doc. 285-286), and good cause appearing,

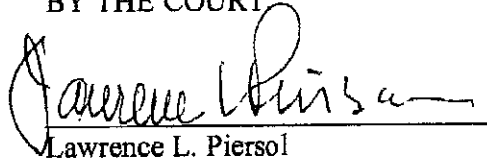
IT IS ORDERED:

1. That Neil Fulton and the South Dakota Federal Public Defender Office be brought within this Court's protective orders (Doc. 285-286) with the exception of Docket 286-2, 286-3, 286-4, 286-6, and 286-7, which were documents provided solely for the Court's *in camera* review;
2. That the materials provided to the South Dakota Federal Public Defender Office are for counsel's use only, and only counsel for Rhines, not Rhines himself, will have access to the protected materials, and counsel for Rhines is prohibited from disclosing protected information to any other person other than this Court, the State Court, counsel for Defendants, expert witnesses testifying in the State Court proceedings subject to this Order, and for no purpose other than the representation of Rhines in the State Court matter;
3. That the Defendants' pharmacy expert, Duncan Murdy, be brought within this Court's Protective Order;

4. That Dr. Heath, who is currently subject to the Protective Order, and any pharmacist hired in the future by the South Dakota Federal Public Defender Office, if any, may discuss protected matters with the South Dakota Federal Public Defender Office and the South Dakota Federal Public Defender Office's pharmacist;
5. That the South Dakota Federal Public Defender Office and its experts, Defendants' counsel and experts, and the State Court may view the transcripts of the depositions of Deponents #1, #2, #3, and #4 under seal of this Court and the State Court; and
6. That this expansion of the Protective Order is supplemental to any similar or potentially more restrictive Order entered by the State Court.

Dated this 15th day of October, 2012.

BY THE COURT:



Lawrence L. Piersol

United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:


DEPUTY